



PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

7

Application Number

09/867,068

Filing Date

05/29/2001

First Named Inventor

Robert H. Scheer

Art Unit

3623

Examiner Name

Jarrett, Scott L.

Attorney Docket Number

31083.05US5

ENCLOSURES (Check all that apply)☐ Fee Transmittal Form☐ Fee Attached☐ Amendment/Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Response to Missing Parts/
Incomplete Application☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
Provisional Application☐ Power of Attorney, Revocation
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD

Remarks

☐ After Allowance Communication to TC☐ Appeal Communication to Board
of Appeals and Interferences☒ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please identify
below):

- Reply Brief in TRIPLICATE

- return postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Customer No. 34018
Greenberg Traurig, LLP

Signature

Printed name

Gary R. Jarosik

Date

March 16, 2006

Reg. No.

35,906

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Ranni Matar

Date

March 16, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

American LegalNet, Inc.
www.USCourtForms.com



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert H. Scheer)	Examiner:	Jarrett, Scott L.
)		
Serial No.:	09/867,068)	Art Unit:	3623
)		
Filed:	May 29, 2001)	Attny Doc.:	31083.05US5
)		
Title:	System And Method For)		
	Providing Integrated Supply)		
	Chain Management)		

REPLY BRIEF

Mail Stop Appeal Briefs - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Appellant hereby submits this Reply to the Examiner's Answer dated February 6, 2006.

This Reply Brief is being filed in triplicate.

The Commissioner is hereby authorized to charge any fee deficiency or credit
overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

Certificate of Mailing: I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail, postage prepaid, in an envelope addressed to: Mail Stop Appeal Briefs – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of March, 2006.

By: Ranni Matar
Ranni Matar

REMARKS

In accordance with 37 CFR §§ 41.41(a)(1) and 41.43(b), Appellant hereby submits this Reply Brief in response to the Examiner's Answer.

In the Appellant's Appeal Brief, it was demonstrated that, contrary to the position taken by the Examiner in the rejection of the claims, Roddy fails to disclose, teach, suggest, or even appreciate the desirability of providing a customer agent server that functions to extract information from a work order entered into a customer maintenance system to thereby create an advance demand notice for items [to be used during a repair procedure associated with the work order] and a distributor system that functions to respond to a receipt of the advance demand notice order that was created using the information extracted from the work order to initiate a staging of the items within a supply chain to thereby meet an expected use of the items during the repair procedure as is set forth in independent claim 1.

It is respectfully submitted that the Examiner's Answer does not provide any evidence that contradicts the arguments and reasoning set forth in the Appellant's Appeal Brief.

By way of example, the Examiner's Answer asserts on page 24 that, contrary to the position taken in the Appellant's Appeal Brief, "figure 9 [of Roddy] depicts the extraction of data/information **from the work order...**" However, it is respectfully noted that figure 9 of Roddy does not depict the extraction from a work order in a customer maintenance system information that identifies items expected to be used during a repair procedure pertaining to a scheduled maintenance activity to create an advance demand notice order for those items as is set forth in the claims. Rather, figure 9 of Roddy depicts the work order (172) being provided to the worker via the data portal and, as each step specified in the work order (172) is completed by the worker, the recordation of each completed step in the data warehouse (169) to thereby provide

real-time repair status information via the monitoring board (174). (see paragraph 0084 of Roddy and the acknowledgement on page 26 of the Examiner's Answer). Accordingly, it is respectfully submitted that, despite the assertions of the Examiner, figure 9 of Roddy fails to demonstrate that Roddy discloses the elements set forth in the claims, considering each and every word thereof, as is required to maintain a *prima facie* case of obviousness.

It is similarly submitted that paragraphs 0071-0078 cited to on page 25 of the Examiner's Answer also fail to demonstrate that Roddy discloses the claimed subject matter. In this regard, it is respectfully noted that the language quoted by the Examiner does not expressly disclose the extraction of information from a work order in a customer maintenance system that identifies items expected to be used during a repair procedure pertaining to a scheduled maintenance activity to create an advance demand notice order for those items as is set forth in the claims. Furthermore, the language quoted by the Examiner cannot be said to inherently disclose these claimed elements, i.e., "make clear that the missing descriptive matter is necessarily present in the thing described and that it would be so recognized by persons of ordinary skill" *Continental Can Co. USA v. Monsanto Co.*, 948 F.3d 1264 (Fed. Cir. 1991). While the language quoted by the Examiner on pages 25 and 26 of the Examiner's answer pertains to a processing element that receives fault information that is reported by the on-board diagnostic system of the locomotive to develop repair instructs for execution by a human operator, it is respectfully submitted, for the reasons that are more fully developed in the Appellant's Appeal Brief, that this mere disclosure is not sufficient to demonstrate that Roddy discloses all of the elements claimed as is required to support a *prima facie* case of obviousness.

It is also submitted that the disclosure in paragraphs 0082-0086 cited to on pages 25 and 26 of the Examiner's Answer likewise cannot be said to demonstrate that Roddy discloses the

elements set forth in the claims, considering each and every word thereof. As discussed above and developed more fully in the Appellant's Appeal Brief, the language quoted by the Examiner, which details how the system of Roddy extracts information from work order completions to allow for monitoring of repair procedures or the creation of an electronic work order by the data center in response to data that is pushed to the data center from a monitoring system onboard the locomotive, simply fails to disclose, teach, or suggest the claimed system which functions to *extract information from a work order in a customer maintenance system* that identifies items expected to be used during a repair procedure pertaining to a scheduled maintenance activity *to create an advance demand notice order for those items* (which advance demand notice order is to be further processed by the claimed distributor system).

It is still further respectfully submitted that the Examiner's Answer continues to fail to demonstrate where any system of Roddy operates to respond to the receipt of an advance demand notice (let alone an advance demand notice created from information extracted from a work order in a customer maintenance system) to initiate a staging of items within a supply chain to meet an expected use of the items during a repair procedure as is claimed. Rather, the Examiner acknowledges on, for example, pages 25 and 28 of the Examiner's Answer that, in direct contrast to that which is claimed, in the system of Roddy a service technician is responsible for: a) manually retrieving the work order created and uploaded by the data center to an Internet web page; b) manually reviewing the work order created and uploaded by the data center to the Internet Web page and; c) manually initiating the movement of items to a service location for use in the repair procedure, i.e., team members gather or reserve the parts. (See para. 0087 of Roddy). Furthermore, it is respectfully submitted that the mere fact that the work order created by the system of Roddy may detail the parts and labor necessary to effect a repair

procedure (which work order it is again noted has been acknowledged by the Examiner to be provided only to service technicians) or that pre-ordering parts “implicitly involves other users/systems responding to the request” simply cannot be said to expressly disclose or inherently disclose those specific elements that are set forth in the claims, considering each and every word, as is required to maintain a *prima facie* case of obviousness.

In sum, it is respectfully submitted that, while the rejection of the claims reflects that the Examiner has used the claim language as a guide to merely find similar words within Roddy without regard to the context in which Roddy uses those words, the rejection of the claims, as well as the Examiner’s Answer, nevertheless fails to demonstrate that Roddy discloses any systems that can be said to correspond to, i.e., include all of the elements associated with, the claimed “customer agent server” and the claimed “distribution center.” Since it has been demonstrated that Roddy simply fails to disclose any systems which include all of the elements of the claimed “customer agent server” and the claimed “distribution center,” including the words which pertain to how these claimed systems interact, it is respectfully submitted that the rejection under 35 U.S.C. § 103 of independent claim 1, as well as claims 2-15 which depend from claim 1, must be withdrawn, i.e., Roddy cannot be said to disclose all of the claimed elements excepting the claimed use of intelligent agents as asserted by the Examiner.

As concerns the “official notice” that the use of intelligent agents is well established and well known, it is respectfully submitted that the Examiner’s Answer again fails to answer the question as to how the desire to build the system of Roddy so as to benefit from the use intelligent agents suggests reconstructing Roddy to further include those claimed elements which Roddy fails to contemplate in the first instance. More particularly, it is respectfully noted that the Examiner’s Answer provides no explanation as to why the mere existence of intelligent

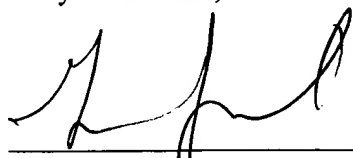
agents suggests modifying Roddy to include within the system of Roddy either a customer agent server which operates to extract information from a work order entered into a customer maintenance system and use the information extracted from the work order in the customer maintenance system to create an advance demand notice for the items specified in the work order or a distributor system which responds to the receipt of the advance demand notice to initiate a staging of items within a supply chain. Since the Examiner continues to fail in providing a reasoned explanation as to why one of skill in the art would have reconstructed Roddy to include all of those claimed elements that are missing from Roddy in the first instance, the Appellant continues to respectfully submitted that the espoused reconstruction of Roddy based upon the mere knowledge that intelligent agents exist and are beneficial is not only unduly speculative but further evidences that the motivation to reconstruct Roddy in the manner espoused by the Examiner could only have been arrived at through the impermissible using of the subject application as the reconstruction guide.

For these yet further reasons, it is again respectfully submitted that the rejection of the claims fails to support a *prima facie* case of obviousness and, as such, the rejection under 35 U.S.C. § 103 of independent claim 1, as well as claims 2-15 which depend from claim 1, must be withdrawn.

Respectfully Submitted;

Date: March 16, 2006

By:



Gary R. Jarosik
Reg. No. 35,906
Greenberg Traurig, LLP
77 W. Wacker Drive, Suite 2500
Chicago, Illinois 60601
(312) 456-8449